IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07/01/2003

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THE HONOURABLE MR. JUSTICE P.SATHASIVAM

W.P.NO.396 of 2003
and
W.P.M.P.No.459 of 2003

R.Jayachandran ..Petitioner

-Vs-

1. The Special Commissioner
Commissioner of Revenue Administration
Chepauk
Chennai 600 005

2.Thanjavur Additional District Magistrate
and District Revenue Divisional Officer
Thanjavur District ..Respondents

Petition filed under Article 226 of the Constitution of India for the issue of writ of Certiorarified Mandamus as stated therein.

For petitioner : Mr.Soundararajan
for VS Rajan Associates

For respondent Nos. 1 and 2 : Mrs. G.Kavitha,G.A.

:ORDER
Aggrieved by the order of the first respondent, the Special Commissioner of Revenue Administration, Chennai 5 dated 6.8.2002 rejecting the appeal as time barred, the petitioner has preferred the present writ petition.

2.On direction, the learned Government Advocate takes notice for the respondents.

3.Heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondents.

4.The petitioner has preferred an appeal before the first respondent against the order of the Additional District Magistrate and District Revenue Divisional Officer, Thanjavur-second respondent herein rejecting his request for grant of arms licence to possess a SBBL gun for self protection. The second respondent has issued an order rejecting the claim of the petitioner

dated 15.5.2002 and the same was fair copied on 23.5.2002. According to the first respondent the appeal should have been prepared before 26.5.2002. However, the appeal was received by the office of the first respondent only on 16.7.2002 after a delay of 23 days. It is further seen that while submitting the appeal the petitioner herein who is an Advocate has furnished three reasons for condoning the delay. They are(i) he received the order copy only on 27.5.2002; (ii) he is a practising Advocate and due to over burden of work on the reopening of the Court after summer vacation he could not file the appeal in time and (iii) he was not well. Hence there is a delay 23 days. The appellate authority-first respondent herein rejected all the three reasons and after holding that the reasons are not acceptable, rejected the appeal as time barred. There is no dispute that under Section 18 of the Arms Act, 1959 any person aggrieved by the order of the licensing authority refusing to grant licence etc, should prefer an appeal to the appellate authority within a period of 30 days. Proviso to sub-section (2) of Section 18 enables the appellate authority to accept the appeal even after the expiry of the period, if the appellant satisfies that he had sufficient cause for not preferring the appeal within the period. The said proviso makes it clear that the appellate authority has power to condone the delay if sufficient cause is shown by the appellan t. According to the first respondent, the appeal papers were received by them after a delay of 23 days.

5.I have already referred to the three reasons adduced by the appellant. Considering the fact that the delay is only 23 days and in the light of the reasons stated for the delay and also of the fact that the petitioner has availed the statutory appeal, I am of the view that he may be given an opportunity to pursue the appeal on merits. The first respondent has committed an error in not accepting the explanation offered by the petitioner and rejecting the appeal as time barred.

6.Accordingly, the impugned order of the first respondent dated 6.8.2002 is quashed and the first respondent herein is directed to entertain the appeal in respect of the order in Ref.No.Naka D.Dist.R.5(1)/5 9178/02 dated 6.8.2002 and dispose of the same on merits in accordance with law.

7.The writ petition is allowed. No costs. Consequently, W.P.M.P. No.459/2003 is closed.

Index:Yes
Internet:Yes
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To

1. The Special Commissioner
Commissioner of Revenue Administration
Chepauk
Chennai 600 005

2.Thanjavur Additional District Magistrate
and District Revenue Divisional Officer
Thanjavur District